IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

APPEAL NO.889 OF 2005
IN
NOTICE OF MOTION NO.1963 OF 2005
IN
SUIT NO.1811 OF 2005

Raymond Limited .. Appellant

v/s.

Inderchand Nahar, proprietor of
M/s.Maruti .. Respondent

Mr.Virag Tulzapurkar with Mr.S. Shah i/by M/s.Rajani Associates for the appellant.

Ms.Anita Crastelino with Ms.Meena Shah i/by M/s.Pandya & Co. for the respondent.

CORAM : R.M.LODHA AND
D.G.KARNIK, JJ.

DATED : 13th December, 2005

P.C.

Heard Mr.Virag Tulzapurkar, the learned counsel for the appellant and Ms.Anita Crastelino, the learned counsel for the respondent.

2. On 1st December, 2005, we passed the following order:-

> "During the course of motion hearing, it did appear to us, of course, prima facie that there is some merit in the grievance about infringement of the plaintiff's copyright in the word "Raymond" by the defendant (respondent).
>
> 2. The learned counsel for the respondent-defendant submits that the defendant has been acting bonafide; he sells the goods manufactured by the plaintiff and, therefore, used the word

"Raymond" on the signage of the shop. The learned counsel for the respondent-defendant, however, submits that if some time is granted, the respondent-defendant shall take up the matter with the plaintiff-appellant in sorting out the matter amicably and, if necessary, seek their permission in using the word "Raymond".

3. The matter is, accordingly, adjourned to 13th December, 2005.

We record the assurance given by the learned counsel for the respondent-defendant to the learned counsel for the appellant-plaintiff that the respondent shall not proceed with the complaint filed by them against the appellant in the Court of Judicial Magistrate, George Town, Chennai."

3. The learned counsel for the appellant submits that it is not possible to grant permission to the respondent to use the word "Raymond" as per the trade policy of the appellant.

4. The appeal has been filed by the original plaintiff aggrieved by the order of the learned motion Judge refusing to grant ad-interim relief. Since the notice of motion is pending before the learned motion Judge, we do not intend to go into the diverse aspects on merits at length lest it must prejudice the consideration of the notice of motion on merits. Suffice, however, to say that, prima facie, the plaintiff has been able to show that the word ‘Raymond’ written in stylised/artistic manner is an artistic work under the Copyright Act, 1957 and that the plaintiff is the owner of the copyright in that artistic work.

It is also registered under the Copyright Act. In our view, therefore, the plaintiff is entitled to grant of ad-interim injunction restraining the defendant from infringing the plaintiff's registered copyright bearing registration No.A-52427/93 using the word "Raymond" as part of any signage/board on his shop. Merely because the defendant sells the goods manufactured by the plaintiff, that would not entitle him to use the word 'Raymond' written in stylised/artistic manner in which the plaintiff has copyright.

5. We, accordingly, dispose of the appeal by the following order:

ORDER

During the pendency of the notice of motion, the defendant by himself, his employees, servants and agents is restrained by an order of injunction from in any manner infringing the plaintiff's registered copyright bearing Registration No.A-52427/93 dated December 20, 1993 (Exhibit 'D' to the plaint) using the word "Raymond" as part of any signage/board on his shop in any manner whatsoever.

6. We clarify that the notice of motion shall be heard and decided by the learned motion Judge on its own merits and neither the impugned order nor our order passed today in the appeal shall influence the decision in the notice of motion.

The learned counsel for the appellant prays for stay of this order. We are not inclined to grant such prayer. Oral prayer for stay is rejected.

(R.M. LODHA, J.)

(D.G. KARNIK, J.)